



Linda S. Adams
Secretary for
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California Regional Water Quality Control Board

Santa Ana Region

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Arnold Schwarzenegger
Governor

September 10, 2009

Amy Roller
San Manuel Band of Serrano Mission
Indians
101 Pure Water Lane
Highland, CA 92346

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION
FOR THE LYNWOOD BOX CULVERT CROSSING AND SAND CANYON CHANNEL
IMPROVEMENTS PROJECT, CITY OF HIGHLAND, SAN BERNARDINO COUNTY
(ACOE REFERENCE NO. NOT AVAILABLE)**

Dear Ms. Roller:

On March 26, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for improvements to the Lynwood Drive box culvert and the Sand Canyon Channel in the City of Highland. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments ("Basin Plan"):

Project Description:

Extension of the existing box culvert for Lynwood Drive crossing Sand Canyon Channel by approximately 20-feet to the roadway's ultimate right-of-way. From the culvert extension downstream to Patton Basin, the Channel will be graded into a trapezoidal channel, with a bottom width of 12-feet. The bottom and banks of Sand Canyon Channel will be armored with grouted rock slope protection. A 62-foot long transition structure, between the box culvert and the trapezoidal channel, will be concrete. The Channel is currently largely earthen with rail and wire revetment protecting the banks and five grouted-rock grade stabilizers in the bottom. The project will occur within Section 30 of Township 1 South, Range 3 West, of the U.S. Geological Survey *Harrison Mountain, California*, 7.5-minute topographic quadrangle map (34 deg. 08 min. 41 sec. N/-117 deg. 13 min. 40 sec. W).

California Environmental Protection Agency



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Receiving water: Sand Canyon Channel.

Fill area: 0.68 acres of an earthen channel (1,452 linear feet).

Dredge volume: Not applicable.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit Nos. 14 and 43.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is less than one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ and subsequent re-authorizations, is not required.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at:
www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2009/09_003_deminimus_permit_wdr.pdf

The project is subject to a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), the San Bernardino County Flood Control District ("District") adopted a Mitigated Negative Declaration on May 19, 2009 (State Clearinghouse No. 2008071106). Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated negative declaration prior to reaching a decision on the project. The Regional Board has considered the District's Mitigated Negative Declaration in the issuance of this Certification and finds that changes or alterations have been required, or incorporated into the proposed project, which avoid or mitigate impacts to water quality to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) This Water Quality Certification is subject to the acquisition of all local, regional, state, and federal permits and approvals as required by law. Failure to meet any conditions contained herein or any the conditions contained in any other permit or



approval issued by the State of California or any subdivision thereof may result in the revocation of this Certification and civil or criminal liability.

- 2) Pollutants in storm water runoff discharged from the project site must be removed, using best management practices, to the maximum extent practicable.
- 3) The discharger must pay an in-lieu fee to the Santa Ana Watershed Association towards the eradication of 1.36 acre of invasive plant species in and along waters of the U.S. in the Upper Santa Ana River Watershed. The fee payment must include funding for a minimum of 20-years of follow-on maintenance and the completion of biological condition assessments, using published and generally accepted methods (e.g., California Rapid Assessment Method), for the purpose of evaluating the improvement to the eradication project area. Evidence of the fee payment must be provided to the Executive Officer by November 10, 2009.
- 4) A copy of this Certification and any subsequent amendments must be maintained at the project site for the duration of work.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this



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certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Mark Durham
Department of Fish and Game – Michael Flores
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board, DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

APF:401/certifications/lynwood culvert~ 362009-07

